

## Guidance Note

Released:

18 March 2021

*Version: 3.1*

Key concepts

Compliance processes

Related information

FGL Operating Rules

*Part 3, Part 4, Part 5 and Part 7*

Recommended Audience

Compliance Managers

Finance Managers

Legal Counsels

Chief Executives and Managing Directors

Previous Issues:

Nil

# GN 9 - Monitoring and Enforcing Compliance

## Introduction

It is the responsibility of the Compliance Department to monitor the ongoing compliance by Trading Participants and Clearing Entities with the Operating Rules.

The Compliance Department monitors Trading Participants and Clearing Entities to ensure that they comply with the FGL Operating Rules and FGL Procedures on an on-going basis and that Trading Participants and Clearing Entities ensure that their Derivatives Staff Members comply with the FGL Operating Rules.

The Compliance Department performs its monitoring and enforcement by:

- Conducting periodic inspections of Trading Participants' records and procedures to assess general compliance with the Trading Participant obligations contained in the Operating Rules;
- Monitoring the Clearing Entities' ongoing compliance with their obligations, as set out in the FGL Operating Rules and the ASIC Market Integrity Rules (Futures Markets) 2017, by regular examination of financial information; and by
- Providing various training, consultation and advisory activities to assist Trading Participants and Clearing Entities in their understanding of and adherence to the FGL Operating Rules.

## Guidance

### Trading Participant Inspections

The periodic inspections cover testing, on a sample basis, by the Compliance Department to ensure that the Trading Participant has the appropriate internal systems and controls in place to ensure ongoing compliance with the FGL Operating Rules (and FGL Procedures and all other Directions, Guidance Notes, procedures and any other forms of guidance issued by the Exchange) and the Corporations Act and Corporations Regulations (where appropriate). The Compliance Department uses an "Inspection Program" which identifies each obligation of a Trading Participant and the procedures to test compliance with those obligations. All Compliance Staff use the standard Inspection Program for all periodic inspections.

With respect to the Trading Participant's conduct specifically towards Clients or prospective Clients, testing encompasses, on a sample basis, compliance with the following areas:

- review of business communications and marketing material to ensure that they do not include false, misleading or deceptive information;
- review of any conditions imposed on the AFS Licence held by the Trading Participant and compliance with any such conditions;
- provision of Client documentation (including Financial Services Guide and Product Disclosure Statement (if applicable)).
- Clients have signed a Client Agreement;
- review of the standard Client Agreement to confirm that the minimum terms set out in Operating Rule 3.6.2(a) have all been included and no other terms have been included in the Client Agreement which are inconsistent with or which purport to restrict the legal effect of the minimum terms;
- Confirmations and monthly statements;
- Accounting records;
- Training of representatives;
- Supervision of representatives;
- Order records (including electronic order routing and filter requirements) and maintenance of an adequate audit trail for Trading;
- Beneficial Owner reports;
- Error Trades;
- Cross Trades;
- Block Trades;
- EFPs; and
- Discretionary trading.

With respect to other conduct of the Trading Participant (i.e. not specifically towards Clients or prospective Clients) testing encompasses, on a sample basis, compliance with audit reports and adequate accounting records. The most recent report of financial position is verified to the underlying accounting records and confirmation of balances is made with reference to underlying source documents.

#### Compliance Advice and Training

The Compliance Department provides ad hoc training and advice to Trading Participants and Clearing Entities on processes and procedures that may be used to improve compliance with the FGL Operating Rules upon request. Given the diverse nature of organisations the Compliance Department will tailor its advice and training to the specific needs of the requesting organisation and will involve other departments within FGL in the provision of this service on an as needs basis.

#### Detected Operating Rule Breach

On identification of a breach or suspected breach of an Operating Rule the Compliance Department will review the available details in order to identify the level of seriousness of the alleged conduct or potential breach (if any) and the decision to further investigate the matter is made on a case by case basis by the Compliance Department.

FGL has issued this Guidance Note to give general assistance to Trading Participants and Clearing Entities in their compliance with the Operating Rules. FGL is not bound by this Guidance Note in any particular case. This Guidance Note is not legal advice and Trading Participants and Clearing Entities should seek their own professional advice on their obligations under the Operating Rules in their particular circumstances. FGL may replace this Guidance Note at any time. Current Guidance Notes are available at [www.fex.com.au/Guidance](http://www.fex.com.au/Guidance) or by contacting FGL on [enquiries@fex.com.au](mailto:enquiries@fex.com.au) or on +61 2 8024 5200

Defined terms in this Guidance Note have the meaning given in the Operating Rules.